



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 18 2015**

FILE #: [REDACTED]

APPLICATION RECEIPT #: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, withdrew the applicant's Temporary Protected Status. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On October 24, 2013, the director withdrew TPS because the applicant failed to submit the final court dispositions for her arrest on [REDACTED] for injury to personal property, communicating threats, and simple assault, and for her failure to appear charges on [REDACTED] and [REDACTED]

On appeal, the applicant provides the requested final court disposition for her arrest on [REDACTED]

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

An alien shall not be eligible for TPS under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

“Misdemeanor” means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under the term “felony” of this section. 8 C.F.R. § 244.1. For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor. *Id.*

The term ‘conviction’ means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, adjudication of guilt has been withheld, where - (i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and (ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed. Section 101(a)(48)(A) of the Act.

On appeal, the applicant submits the following from the Superior Court for [REDACTED] North Carolina:

- Certified court documentation indicating that on [REDACTED] the applicant was charged with assault with a deadly weapon, a violation of G.S. § 14-33(c)(1). On [REDACTED] the applicant pled guilty to and was adjudged guilty of violating a Class A1 misdemeanor offense of assault with a deadly

weapon. The applicant was sentenced to 60 days in jail and ordered to pay a fine and court costs.<sup>1</sup>

- Certified court documentation indicating that on [REDACTED] the applicant was arrested and subsequently charged with simple assault, injury to personal property and communicating threats. On [REDACTED] the applicant pled not guilty to and was adjudged not guilty of these offenses.
- Certified court documentation indicating that on [REDACTED] the applicant was arrested and charged with driving while license is revoked. On [REDACTED] the applicant pled guilty to and was adjudged guilty of a lesser offense, fail to notify DMV of address change, an infraction.
- On [REDACTED] the applicant was charged with failure to appear, a violation of G.S. 15A-1543(c), a Class 2 misdemeanor. The Conditions of Release and Release Order from the [REDACTED] Jail indicates that the applicant was to appear before the [REDACTED] Courthouse on [REDACTED].
- On [REDACTED] the applicant was charged with failure to appear, a violation of G.S. 15A-1543(c), a Class 2 misdemeanor. The Conditions of Release and Release Order from the [REDACTED] Jail indicates that the applicant was to appear before the [REDACTED] Courthouse on [REDACTED].

The applicant, however, has not complied with the request for evidence dated July 18, 2013, which requested that the applicant submit final court dispositions for all arrests. A failure to appear charge, as a Class 2 misdemeanor, carries a maximum punishment of 60 days in jail. G.S. 15A-1340.23.

In a notice of intent to dismiss the appeal dated June 18, 2015, we afforded the applicant an opportunity to submit certified documentation from the [REDACTED] Court, detailing the final disposition for each failure to appear charge. The applicant was granted thirty (30) days to submit the requested documentation. The applicant did not respond to our notice.

The applicant remains ineligible for TPS because of her failure to provide information necessary for the adjudication of her application. 8 C.F.R. § 244.9(a). Consequently, the director's decision to withdraw TPS will be affirmed.

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> The applicant is not inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the Act, as the above conviction meets the petty offense exception. 212(a)(2)(A)(ii) of the Act.